



U.S. AIR FORCE



Compliance with Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Program Rules



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In accordance with Sections 9(f)(1), 9(f)(2)(vii) and 9(f)(2)(viii) of the SBIR and STTR Policy Directives, the Air Force has developed this training to ensure compliance with the eligibility requirements for the SBIR and STTR programs.

You must complete this training and attach a signed completion certificate to your proposal. Failure to comply with these requirements will result in your SBIR/STTR proposal being eliminated from consideration, and not evaluated.





Questions?



If you have any questions regarding the content of this training, please contact Gail Nyikon, AF SBIR Contracting Officer at Gail.nyikon@us.af.mil or (937) 255-0263.





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Part I – Overview of SBIR and STTR Programs



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Introduction: SBIR



- Federal program to strengthen the role of innovative small business concerns in Federally-funded research or research and development (R/R&D)
- Three-phased process encompassing (1) a technical feasibility study, (2) the demonstration and evaluation of commercial potential, and (3) transition to the marketplace





SBIR Program Goals



- Stimulate technological innovation
- Use small business to meet federal R/R&D needs
- Foster and encourage participation by socially and economically disadvantaged and woman-owned small businesses
- Increase private sector commercialization of innovations derived from federal R&D



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SBIR Program Eligibility



SBIR participation requirements:

- For-profit Small Business Concern (SBC) of 500 or fewer employees
- SBC at least 51% owned by U.S. citizen(s)
- “Principal Investigator” – individual designated by the SBC to provide scientific and technical direction to the project
 - Primary employment (>50%) must be with the SBC
 - Precludes full time employment by another organization
- Work must be performed in the US*
- SBC cannot receive funding for a SBIR project essentially equivalent to other work they have performed for the Federal Government

* Includes Puerto Rico and Territories





SBIR Program Eligibility



SBIR participation requirements:

- During Phase I, a minimum of 2/3 effort must be performed by SBC
- During Phase II, a minimum of 1/2 of the effort must be performed by SBC

NOTE: Deviations may be allowed for some requirements, with an approved waiver





Introduction: STTR



- Federal program to stimulate a partnership of ideas and technologies between innovative small business concerns and U.S. research institutions
- Three-phased process similar to SBIR





STTR Goals



The Small Business Technology Transfer Program funds cooperative R&D between small businesses and research institutions and is designed to:

- Create vehicles for moving ideas from research institutions to market
- Enable researchers to pursue commercial application of technologies
- Bridge funding gap between basic research and commercial product





STTR Participation Eligibility



STTR participation requirements:

- For-profit SBC of 500 or fewer employees
- Research institution (RI) is a college or university, non-profit RI, or Federally Funded Research and Development Center (FFRDC)
- SBC must perform a minimum of 40% of the work; RI a minimum of 30%
- SBC (prime) must manage and control the STTR funding agreement
- Principal Investigator may be employed by SBC or RI
- Work must be performed in the US (Includes Puerto Rico and Territories)
- SBC cannot receive funding for a STTR project essentially equivalent to other work they have performed for the Federal Government





SBIR/STTR Three-Phase Process



Phase I

- The purpose of Phase I is to determine the scientific, technical, and commercial merit and feasibility of ideas proposed by SBCs pursuant to the solicitation
- Phase I awards are normally up to \$150K
- Normally do not exceed 6 months technical effort with 3 months for final reporting





SBIR/STTR Three-Phase Process



Phase II

- Continuation of the R&D effort, funding the most promising Phase I projects
- Only those firms that were awarded Phase I contracts are eligible to submit a Phase II proposal, unless they are proposing against a Direct to Phase II topic
- Phase II awards are generally \$750k
- Normally do not exceed 2 years in duration





Three-Phase Process (Con't)



Phase III

- Commercializing work that derives from, extends, or completes an effort performed under prior SBIR/STTR agreements
- Phase III is the ultimate goal of each SBIR/STTR effort
- Phase III contracts may be awarded on a sole-source basis
- No limit on the number, award amount, or duration of Phase III contracts
- Small business size standards do not apply to Phase III contracts





Differences between SBIR & STTR



Research Partner

- SBIR: Permits RI partners
- STTR: Requires RI partners to perform at least 30 percent of the R&D work

Principal Investigator (PI)

- SBIR: Primary employment must be with SBC
 - Primary employment: >50% of the PI's time spent in employ of the SBC
 - Precludes full-time employment with another organization
- STTR: Primary employment must be with the RI or the SBC
 - Primary employment: >50% of the PI's time spent in employ of the SBC or the RI
 - Precludes full-time employment with another organization





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Part II – Fraud in SBIR and STTR programs



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Fraud Defined



Although it can take many forms, fraud, at its core, is **deception** through the **misrepresentation** or **omission of material facts** for the purpose of **illegitimate gain**





Fraud Examples



Examples of fraud on SBIR/STTR contracts include, but not limited to:

- Accepting federal funding on more than one SBIR/STTR contract/grant for essentially equivalent work
- Misrepresentations regarding the primary employer of the PI
- Misrepresentations or omissions about the SBC's facilities, number of employees, or percentage of work to be performed by the SBC
- Providing falsified letters of reference
- Misrepresentations of the use of funds expended, work performed, results achieved, or compliance with program requirements under a SBIR/STTR award





Fraud Examples (con't)



- Misuse or conversion of SBIR/STTR award funds (e.g. using funds for personal expenses)
- Fabrication, falsification, or plagiarism in applying for, carrying out, or reporting results from a SBIR/STTR award
- Failure to comply with applicable federal cost principles governing SBIR/STTR awards
- Undisclosed self-dealing, such as a sub-award to an entity in which the PI or one of the PI's family members has a financial interest





**You must follow the
SBIR/STTR program
rules or there will be
CONSEQUENCES**





Compliance Requirements



Essentially Equivalent Work is Prohibited

IMPORTANT – It is **unlawful** to enter into multiple contracts or grants requiring essentially equivalent work. SBIR/STTR awardees must certify at the time of proposal submission and during the lifecycle of the award that they do not have any essentially equivalent work funded by the Federal Government.





Compliance Requirements



“Essentially Equivalent Work” defined:

- Work that is substantially the same research, which is proposed for funding in more than one contract proposal or grant application submitted to the same federal agency or submitted to two or more different federal agencies for review and funding consideration; or
- Work where a specific research objective and the research design for accomplishing the objective are the same or closely related to another proposal or award, regardless of the funding source





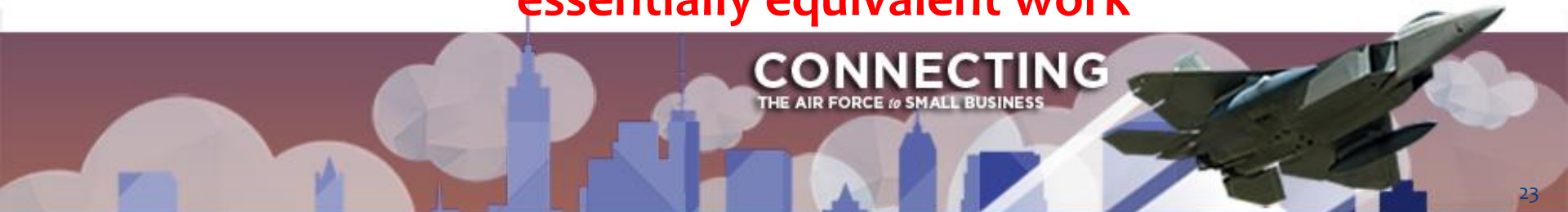
Compliance Requirements

Similar Proposals or Awards



- Submitting similar or even identical proposals for consideration by multiple federal agencies is permissible; however:
 - It is unlawful to enter into multiple funding agreements for essentially equivalent work
 - Submission of proposals involving essentially equivalent work must be fully disclosed to the soliciting agency or agencies before award

Bottom Line: Absent specific authorization, it is fraud to accept payment from multiple agencies for the same or essentially equivalent work





Compliance Requirements



Disclosure of Similar Proposals or Awards

If an applicant elects to submit multiple proposals describing duplicate or essentially equivalent work, a statement must be included in each such proposal indicating:

- Name and address of each agency to which proposals were submitted or from which awards were received
- Date of proposal submission or date of award
- Title, number, and date of solicitations under which each proposal was submitted or awards received
- Specific applicable research topics for each proposal submitted or award received
- Titles of research projects; and
- Name and title of principal investigator or project manager for each proposal submitted or award received





Essentially Equivalent Work Case Example



Allegations:

- SBC owner applied for funding from NASA for a proposal for which he had already received funding from the Air Force
- Owner subcontracted out major portions of the grants and contracts, violating their terms

Outcome:

- SBC owner pled guilty to mail fraud and tax evasion
- Sentenced to twelve months of home confinement and five years of probation
- Paid \$1.4 million in restitution to the Government
- Five-year ban on receiving federal grants or contracts

Double-click below
for more
information

NEWS

United States Department of Justice
U.S. Attorney, District of New Jersey
970 Broad Street, Seventh Floor
Newark, New Jersey 07102



Christopher J. Christie, U.S. Attorney

More Information? Dial the Public Affairs UpDate Line (973-645-3657), or call the Assistant U.S. Attorney or other contact listed below to see if more information is available.

News on the Internet: News Releases, related documents and advisories are posted short-term at our website, along with links to our archived releases at the Department of Justice in Washington, D.C. Go to: <http://www.njusao.org/break.html>

Assistant U.S. Attorneys
DONNA GALLUCIO
and STUART A. MINKOWITZ
973-645-2786 and 2925

lavi1109.net
FOR IMMEDIATE RELEASE
Nov. 9, 2005

New Jersey-based Scientist Sentenced for Government Contract
and Tax Fraud; Also Settles Civil Complaint and Tax Liability for
\$1.4 Million

(More)

Public Affairs Office
<http://www.njusao.org>
Michael Dreniak, PAO

UpDates — 973-645-3657
973-645-2888

Breaking News (NJ) <http://www.njusao.org/break.html>

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Compliance Requirements



The Primary Employer of the Principal Investigator (PI)

- **SBIR:** The PI's primary employer must be the SBC
- **STTR:** The PI's primary employer must be the SBC or RI
- **SBC cannot change the PI without the prior written consent of the Government**





Employment of PI Case Example



Allegations:

- NASA SBIR contract was available only to those who agreed to work on the project full-time
- Subject ineligible to receive the contract due to having a full-time job outside the firm he operated (employed full-time at a university)

Outcome:

- Subject pled guilty to one count of wire fraud
- Sentenced to three years of probation
- Ordered to pay \$133,333 in restitution to the Government

Click below for more information:



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Certifications



You Must Certify When You Submit Your Proposal:

- The awardee is an SBC meeting the size eligibility provisions
- SBC is at least 51% owned by U.S. citizens or permanent resident aliens of the U.S.
- For SBIR contracts, at least 2/3 of the work will take place in the SBC's facilities with the SBC's employees
- For SBIR contracts, PI is primarily employed by the SBC
- Physical address of SBC is located in the U.S. (Includes Puerto Rico and Territories)
- The SBC has not been awarded any other Federal Government contracts or grants for essentially equivalent work
- Disclosure of family or academic relationships with company owners or employees, subcontractors, etc.

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Certifications (Con't)



Phase I And II Certifications – Award and Life Cycle Submissions

All SBIR/STTR Phase I and II awardees must submit certifications at the following times:

Award: Phase I and Phase II awardees- at time of award

Life Cycle :

- Phase I awardees – prior to receipt of final payment
- Phase II awardees – prior to receipt of more than half the total contract award amount AND before receipt of final payment

See below to review certifications required at time of award



Adobe Acrobat Document

See below to review certifications required during life cycle of the project



Adobe Acrobat Document

Certifications:

- The prime contractor met/meets the ownership and control requirements of an SBC set forth in 13 CFR 121.702





Certifications (Con't)



Phase I And II Certifications – Award and Life Cycle Submissions

Certifications include:

- PI's primary employment
- Essentially equivalent work has not been funded by another federal agency
- PHASE II MID-EFFORT CERTIFICATION – Upon completion of the effort, the SBC will have performed the required portion of the work
- PHASE I AND II FINAL CERTIFICATION – Work is completed and the SBC has performed the required portion of the work
- The awarded R&D is being/has been performed in the U.S.
- Performance is taking/has taken place at the SBC's facilities with the SBC's employees
- The SBC understands information submitted may be provided to federal, state, and/or local agencies to be used for determining violations of law and other purposes

Falsely certifying to any material fact or representation contained in a certification is fraud





False Certifications Case Example



Subject was the Director of Innovation Nuclear Space Power and Propulsion Institute at a university, and Subject's wife was president of an SBC

Double-click
below for more
information

Allegations:

- Falsely represented the SBC would provide research services of scientists, engineers and laboratory assistants working in a state-of-the-art analysis and data communication laboratory
- Submitted false claim forms and invoices that misrepresented the identities of persons who performed actual work
- Falsely represented that PI described in the proposal was primarily employed by SBC
- Used work product of university research assistant and adjunct professor without their knowledge or consent

USDOJ US Attorney's Office - Northern District of Florida Page 1 of 2

THE UNITED STATES ATTORNEY'S OFFICE
NORTHERN DISTRICT OF FLORIDA
ARCHIVE

Home » News » Press Release
NEWS

UNIVERSITY OF FLORIDA NUCLEAR ENGINEERING
PROFESSOR AND WIFE CONVICTED OF FEDERAL CONTRACT
FRAUD

FOR IMMEDIATE RELEASE February 25, 11

TALLAHASSEE, FLORIDA – A nuclear engineering professor, formerly employed by the University of Florida, and his wife, the president of a research and development company specializing in high-tech engineering research, have been convicted of fraud and related offenses in connection with more than \$2 million in government contracts, announced Pamela C. Marsh, U.S. Attorney for the Northern District of Florida.

Following a three-week jury trial in Gainesville, Steven Anguish, 66, and his wife, Susan Anguish, 56, were convicted of conspiracy to commit wire fraud. In addition, Susan Anguish was convicted on 10 substantive counts of wire fraud, and Steven Anguish was convicted on 10 substantive counts. Steven Anguish was also convicted of producing false documents to a federal agency.

Evidence presented at trial established that between 1999 and 2010, Steven Anguish was employed as a professor at the University of Florida and served as the Director of the Innovation Nuclear Space Power and Propulsion Institute (INSPI) there. Susan Anguish was the president of New Era Technology, Inc. (NETECH), a business in which Steven Anguish had formerly served as director and vice president.

Working together, the couple submitted fraudulent contract proposals to obtain more than \$2 million in contracts with NASA and the Air Force. The defendants falsely represented that NETECH would provide research services of scientists, engineers, and laboratory assistants, working in a state-of-the-art analysis and data communications laboratory. The Anguishes also represented that NETECH would be collaborating with INSPI to provide important research and data to the government.

<http://www.justice.gov/archive/insur/thejames/2011/06/anguish.html> 5/13/2013

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False Certifications Case Example (Con't)



Outcome:

- Subject and wife convicted of conspiracy to commit wire fraud and more than two dozen counts of wire fraud
- Subject was sentenced to 6 mos. prison, 3 years supervised release, \$390,252 forfeiture and \$100,000 fine
- Wife was sentenced to 6 mos. home confinement with similar financial penalties





Consequences of Committing Fraud



Criminal Prosecution

Lying to obtain an SBIR/STTR contract, or lying about the work performed **violates several criminal laws:**

- False Statements, 18 U.S.C. § 1001 (5 years in prison, forfeiture and \$250K fine)
- Theft of Federal Property, 18 U.S.C. § 641 (10 years in prison, forfeiture and \$250K fine)
- Wire Fraud, 18 U.S.C. § 1343 (20 years in prison, forfeiture and \$250K fine)

Criminal forfeiture = full amount of grant/contract; personal assets can be seized to satisfy forfeiture or fine





Consequences of Committing Fraud (con't)



Civil Liability

- May be imposed in addition to criminal prosecution

Civil False Claims Act, 31 U.S.C. §§3729-3733

- Liability includes treble damages (3x actual damages) and a fine of up to \$11,000 for each false claim
- False claims liability includes payments received when the Government relied upon false information in the SBIR/STTR proposal, in a certification of current cost or pricing data, in a request for payment or in progress reports
- Although the statute requires knowledge that the claim was false, the term “knowledge” includes “deliberate ignorance” or “reckless disregard for the truth”
- Whistleblowers can receive up to 30% of award for reporting fraud via *qui tam* provision of False Claims Act





Consequences of Committing Fraud (con't)



Administrative Remedies

- **Government can terminate contracts tainted by fraud**
- **Government can debar SBC, owner, and/or employees**
 - Results in prohibition from receiving any federal contracts or working as a subcontractor on federal contracts
 - Debarment is typically for three years, but can be for a longer period
- **Administrative remedies are in addition to criminal and civil liability**





Recommendations



The Government retains the right to examine the status of an SBIR/STTR contract at any time

Status checks include:

- Site visits
- Requests for records including financial documents and timesheets

Good recordkeeping will help eliminate suspicion and ensure successful status checks





Recommendations



Good Records: Key to Protecting Yourself

Documentation

- Timesheets for hours worked by ALL involved employees
- All financial receipts, invoices and statements for expenses related to the project
- Laboratory notebooks

Research Institutions (if applicable)

- Agreements for use of research facilities
- Personnel logs for assistance from institution's staff and/or students

Updates on the project's status, including successes/failures

- Weekly or daily if possible





Important to Remember!



If you are unsure about any of the rules relating to the award of a SBIR or STTR contract:

- Contact the appropriate Contracting Officer and provide all relevant facts
- Request written guidance from the Contracting Officer, and
- Follow it!





International Traffic in Arms Regulation (ITAR) – 22 C.F.R. §§ 120.1-130.17



What is the intent of ITAR?

- Restricts exports of goods and technology that could contribute to the military potential of adversaries
- Prevent proliferation of weapons of mass destruction
- Prevent terrorism
- Comply with U.S. trade agreements and trade sanctions against other nations

ITAR restrictions may apply to SBIR/STTR awardees

- Ensure you and your subcontractors/research institutions have policies/processes in place to protect ITAR information
- Disclosure of defense-related technical data to unauthorized person (e.g., foreign student) may violate ITAR

References

- U.S. Department of State, Directorate of Defense Trade Controls
https://www.pmddtc.state.gov/regulations_laws/itar.html





Additional Resources



U.S. Government SBIR/STTR website

- <http://www.sbir.gov/>

Small Business Administration website

- <http://www.sba.gov/>

DoD SBIR/STTR website

- <http://www.acq.osd.mil/osbp/sbir/index.shtml>

Air Force SBIR/STTR web site

- <https://www.afsbirsttr.com/Portal.aspx>





Additional Resources



SBIR Policy Directive

- https://www.sbir.gov/sites/default/files/sbir_pd_with_1-8-14_amendments_2-24-14.pdf

STTR Policy Directive

- https://www.sbir.gov/sites/default/files/sttr_pd_with_1-8-14_amendments_2-24-14.pdf





Certificate of Training Completion



The undersigned has fully and completely reviewed this training on behalf of the proposer/awardee, understands the information presented, and has the authority to make this certification on behalf of the proposer/awardee. The undersigned understands providing false or misleading information during any part of the proposal, award, or performance phase of a SBIR or STTR contract or grant may result in criminal, civil or administrative sanctions, including but not limited to: fines, restitution, and/or imprisonment under 18 USC 1001; treble damages and civil penalties under the False Claims Act, 31 USC 3729 et seq.; double damages and civil penalties under the Program Fraud Civil Remedies Act, 31 USC 3801 et seq.; civil recovery of award funds; suspension and/or debarment from all federal procurement and non-procurement transactions, FAR Part 9.4 or 2 CFR Part 180; and other administrative remedies including termination of active SBIR/STTR awards.

Signature

Date

Name

Firm Name and Position Title

Proposal #

